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10/519,570	07/22/2005	Yee-Hyeng Kim	1005.006	7284
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BOOTH UDALL, PLC 1155 W. Rio Salado Pkwy. Suite 101 Tempe, AZ 85281				
EXAMINER				
FONSECA, JESSIE T				
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3633				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/519,570

**Applicant(s)**

KIM, YEE-HYENG

**Examiner**

JESSIE FONSECA

**Art Unit**

3633

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 4 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4 and 7-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The listing of references in the Search Report is not considered to be an information disclosure statement (IDS) complying with 37 CFR 1.98. 37 CFR 1.98(a)(2) requires a legible copy of: (1) each foreign patent; (2) each publication or that portion which caused it to be listed; (3) for each cited pending U.S. application, the application specification including claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion, unless the cited pending U.S. application is stored in the Image File Wrapper (IFW) system; and (4) all other information, or that portion which caused it to be listed. In addition, each IDS must include a list of all patents, publications, applications, or other information submitted for consideration by the Office (see 37 CFR 1.98(a)(1) and (b)), and MPEP § 609.04(a), subsection I. states, "the list ... must be submitted on a separate paper." Therefore, the references cited in the Search Report have not been considered. Applicant is advised that the date of submission of any item of information or any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the IDS, including all "statement" requirements of 37 CFR 1.97(e). See MPEP § 609.05(a).

### ***Specification***

The disclosure is objected to because of the following informalities:

Lines 7-8 of par. 10, it's unclear as to how the water shielding part can be shaped like a sheet as the term "sheet" is typically known to describe a continuous flat material and not a shape. Further, it's unclear how the water shielding part is a "sheet."

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4 and 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 4 (line 8): The limitation "sheet-like" renders the claim indefinite, it's unclear if the water shielding part is a sheet or not. The term "sheet-like" implies that the water shielding part has characteristics of a sheet, however, it's unclear as to what characteristics are applicable to applicant's claimed invention. Examiner submits that applicant's water shielding part does not appear to be a sheet.

Regarding claim 8 (line 10): The limitation "sheet-shaped wedge" found in line 8 renders the claim indefinite. It's unclear as to how the water shielding part can be shaped like a sheet as the term "sheet" is typically known to describe a continuous flat material and not a shape. Examiner submits that applicant's water shielding part does not appear to be a sheet. Note that 9 claim recites the cap as being L-shaped.

Note: claims 4 and 8-10 are examined as best understood.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 102***

Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Brandes (Des. 385,180).

With regards to claim 7: Brandes discloses a cap (fig. 1) comprising a shielding part having a L-shaped hollow body with two sidewalls and a slot defined between the two sidewalls (fig. 1).

Note that claim 7 is directed solely to the backflow prevention cap, recitations directed to the panel are considered intended use as the panel has not been positively claimed.

The cap of Brandes is capable of use with panels, wherein each panel having a tetragonal panel body, outer interlocking folds provided by folding outwardly two neighboring sides of the panel body to extend in parallel to a surface of the panel body, and inner interlocking folds provided by folding inwardly two remaining sides of the panel body opposite to the outer interlocking folds so that the inner interlocking folds extend in parallel to an opposite surface of the panel body.

The cap of Brandes is capable of being installed in top ends of the outer interlocking folds of each of the panels and supported in the top ends of the outer interlocking folds by an adhesive when the panels are continuously seamed together by the outer and inner interlocking folds thereof that interlock with each other, the shielding

part of Brandes is capable of preventing a backflow of water from the panel body of each of the seamed panels into gaps defined between the outer and inner interlocking folds of the seamed panels; and the slot of Brandes defined between the two sidewalls is capable of being inclined so as to open towards both the panel body and the outer interlocking folds.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claims 8 and 10/8 are rejected under 35 U.S.C. 102(b) as being anticipated by Walter (US 345,089).

With regards to claim 8: Walter discloses backflow prevention cap system comprising:

a plurality of panels (A) each having:

a tetragonal panel body (fig. 1);

outer interlocking folds provided by folding outwardly two neighboring sides of the panel body to extend in parallel to a surface of the panel body and inner interlocking folds provided by folding inwardly two remaining sides of the panel body opposite to the outer interlocking folds so that the inner interlocking folds extend in parallel to an opposite surface of the panel body (col. 1, lines 33-40; figs. 1-2); and

a backflow prevention cap (C) comprising:

a water shielding part (body) having a sheet-shaped wedge structure to be installed in top ends of the outer interlocking folds of each of the panels (A) and supported in the top ends of the outer interlocking folds by locking means when the panels (A) are continuously seamed together by the outer and inner interlocking folds thereof that interlock with each other (figs. 1-2), the shielding part (body) of Walter is capable of preventing a backflow of water from the panel body of each of the seamed panels into gaps defined between the outer and inner interlocking folds of the seamed panels.

With regards to claim 10/8: Walter further discloses each of the panels having the outer and inner interlocking folds is configured to be installed by a separate locking clip (B) (figs. 1-2 and 4).

### ***Claim Rejections - 35 USC § 103***

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brandes (Des. 385,180) in view of Lee (US 5,533,758).

With regards to claim 4: Brandes discloses a cap comprising a shielding part having a "sheet-like" wedge structure, where in the shielding part comprises an L-shaped hollow body with two sidewalls (fig. 1). Brandes discloses everything previously mentioned, fails to disclose the cap is supported by an adhesive as a locking means.

However, Lee discloses a corner guard (10) body supported by an adhesive as a locking means (col. 5, lines 28-43).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the cap (corner guard) of Brandes to include an adhesive as the locking means as taught by Lee in order to provide a structure with increased security between the cap (corner guard) and the corner to which it is placed.

Note that claim 4 is directed solely to the backflow prevention cap, recitations directed to the panel are considered intended use as the panel has not been positively claimed.

The cap of Brandes, previously modified by Lee, is capable of use with panels, each panel having a tetragonal panel body; outer interlocking folds provided by folding outwardly two neighboring sides of the panel body to extend in parallel to a surface of the panel body; and inner interlocking folds provided by folding inwardly two remaining sides of the panel body opposite to the outer interlocking folds so that the inner interlocking folds extend in parallel to an opposite surface of the panel body, the backflow prevention cap comprising:

The shielding part of Brandes, previously modified by Lee, having a "sheet-like" wedge structure is capable of being installed in top ends of the outer interlocking folds of each of the panels and supported in the top ends of the outer interlocking folds by locking means when the panels are continuously seamed together by the outer and inner interlocking folds thereof that interlock with each other, the shielding part of Brandes, in view of Lee, is capable of preventing a backflow of water from the panel body of each of the seamed panels into gaps defined between the outer and inner interlocking folds of the seamed panels.



Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claims 4, 9, and 10/9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walter (US 345,089) in view of Krause et al. (US 6,367,220).

With regards to claim 4: Walter discloses a cap (C) comprising a shielding part (body) having a "sheet-like" wedge structure, where in the shielding part comprises an L-shaped hollow body with two sidewalls. Examiner notes the cap of Walter is L-shaped when viewed from the side (best shown in fig. 5). Walter fails to disclose the cap is supported by an adhesive as a locking means.

However, Krause et al discloses a connector being supported by an adhesive as a means of locking for securement to a panel (Col. 5, lines 27-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the cap of Walter to include an adhesive locking means as taught by Krause et al. in order to provide a structure with increased securability between the cap and the panel surface in which it is adhered.

Note that claim 4 is directed solely to the backflow prevention cap, recitations directed to the panel are considered intended use as the panel has not been positively claimed.

The cap of Walter is capable of use with panels, each panel having a tetragonal panel body; outer interlocking folds provided by folding outwardly two neighboring sides of the panel body to extend in parallel to a surface of the panel body; and inner interlocking folds provided by folding inwardly two remaining sides of the panel body opposite to the outer interlocking folds so that the inner interlocking folds extend in parallel to an opposite surface of the panel body.

The shielding part of Walter, previously modified by Krause et al., having a "sheet-like" wedge structure is capable of being installed in top ends of the outer interlocking folds of each of the panels and supported in the top ends of the outer interlocking folds by locking means when the panels are continuously seamed together by the outer and inner interlocking folds thereof that interlock with each other, the shielding part of Walter, previously modified by Krause et al., is capable of preventing a backflow of water from the panel body of each of the seamed panels into gaps defined between the outer and inner interlocking folds of the seamed panels.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

With regards to claim 9: Walter further discloses the water shielding part comprises an L-shaped hollow body with two sidewalls, it is noted the shielding part of Walter is L-shaped when view formed from the side (best shown in fig. 5). Walter fails to disclose the water shielding part is supported by an adhesive as the locking means.

However, Krause et al. discloses a connector (52) being supported by an adhesive as a means of locking for securement to a panel (col. 5, lines 27-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the cap of Walter to include an adhesive as a locking means as taught by Krause et al. in order to provide a structure with increased securability between the cap and the surface in which it adhered.

With regards to claim 10/9: Walter further discloses each of the panels having the outer and inner interlocking folds is configured to be installed by a separate locking clip (B) (figs. 1-2 and 4).

### ***Response to Arguments***

Applicant's arguments filed 1/6/09 have been fully considered but they are not persuasive.

Regarding the objection to specification, Applicant argues the backflow prevention cap is considered sheet-like as it is relatively thin in comparison with its breadth and length.

It is noted that the specification describes the backflow prevention cap as a "sheet-shaped wedge". Examiner submits a "sheet" is well known to be flat continuous piece of material and not a shape.

Examiner disagrees with Applicant's interpretation of the term "sheet," it is submitted the complete definition from Merriam-Webster's online dictionary supports

Examiner's interpretation of the term. Note that the definition provided by applicant further includes a baking sheet (cookie sheet) as an example.

Applicant further argues Brandes and Lee are nonanalogous art to claim 4, Applicant submits that both Brandes and Lee are directed to corner protectors and fulfill functions not found in Applicants' device

Examiner submits Applicants' arguments appear be directed to the intended use of the backflow prevention cap. Note a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Regarding Applicants' arguments that Lee does not disclose a two sidewalls or a water guide slot.

It is submitted that Brandes is relied on to teach the structure of the claimed cap and Lee is relied on to teach that it is known in the art to provide adhesive to a cap (corner guard). One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The objection of claim 6 has been withdrawn in view of the amendment filed 1/6/09.

The previous rejection of claims 1, 4, 6/1, and 6/4 under 35 U.S.C. 112, second paragraph, has been withdrawn in view of the amendment filed 1/16/09.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited is directed to interlocking panels.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art of record is directed to panels having locking means and corner guards/protectors having hollow bodies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JESSIE FONSECA whose telephone number is (571)272-7195. The examiner can normally be reached on M-F 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Canfield can be reached on (571)272-6840. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. F./

Examiner, Art Unit 3633

/Robert J Canfield/

Supervisory Patent Examiner, Art Unit 3635